

## EXHIBIT 3

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ERIC SOUVANNAKANE,  
Plaintiff

v.

SEARS, ROEBUCK & CO., WILLIAM  
SULLIVAN, RICHARD SPELLMAN,  
BARBARA TAGLIARINO, KEVIN SULLIVAN,  
ALICIA COVIELLO, GARY MANSFIELD  
Defendants

Civil Action No. 0412164MLW

**AFFIDAVIT OF ANTHONY CIERI**

I, Anthony Cieri, state as follows under penalties of perjury:

1. I have been employed at Sears, Roebuck and Co. since December, 1986. I am currently the manager of the automotive department of the Sears store in Saugus, Massachusetts.
2. Eric Souvannakane was hired by Sears as an automotive technician at the Saugus store in August, 2002.
3. Beginning in January, 2003, I was Mr. Souvannakane's direct supervisor.
4. Barbara Tagliarino, the Store Manager, and I were the only employees at the Saugus store who had the authority to terminate Mr. Souvannakane's employment.
5. On September 29, 2003, Mr. Souvannakane was involved in an incident in which he admittedly swore at a customer.
6. As a result of that incident, on October 2, 2003, I issued Mr. Souvannakane a "Final Warning." A true and accurate copy of my handwritten documentation of this Final Warning, which was signed by me and by Mr. Souvannakane, is attached as Exhibit A. Under

Sears's disciplinary policy, this incident also could have constituted sufficient grounds for termination of Mr. Souvannakane's employment.

7. The document attached as Exhibit A was prepared and kept in the ordinary course of Sears's business.

8. On October 14, 2003, I learned that Mr. Souvannakane was involved in an incident with another customer in which that customer, Pam Lacroix, alleged that he swore at her.

9. I investigated this second incident and received written statements from two employees who reported that Mr. Souvannakane had used profanity toward Ms. Lacroix.

10. True and accurate copies of these witness statements are attached to this affidavit as Exhibit B.

11. The written statements attached as Exhibit B were obtained and kept in the ordinary course of Sears's business.

12. On October 15, 2003, Ms. Lacroix called the automotive department and spoke with me concerning the incident with Mr. Souvannakane.

13. Ms. Lacroix reported that Mr. Souvannakane had called her an "asshole" and, when she told him that he could not speak to her in that manner, he responded by saying "fuck you."

14. Ms. Lacroix also reported that Mr. Souvannakane gave her dirty looks while she waited for the work on her car to be completed.

15. On October 16, 2003, I met with Mr. Souvannakane and Barbara Tagliarino, the Store Manager, in Ms. Tagliarino's office.

16. At this meeting, Ms. Tagliarino and I informed Mr. Souvannakane that Sears was terminating his employment, effective immediately.

17. I told Mr. Souvannakane that he was being terminated because of his use of profanity toward customers.

18. Ms. Tagliarino and I were the only employees at the Saugus Sears store who were involved in the decision to terminate Mr. Souvannakane's employment.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 13 DAY  
OF NOVEMBER, 2006.

  
Anthony Ciefi

#382376

## EXHIBIT A

ERIC SOUANNAKANE HAS BEEN GIVEN A  
FINAL WARNING PER BARBARA TAGLIAVINO FOR THE  
INCIDENT THAT OCCURRED WITH CUSTOMER ON  
9/29/2003.

x C. J. Paul

x Atty J C 10/2/03

## EXHIBIT B

a Customer came in last night 10/14/03 for a Flat Repair. Tire could not be repaired G. Caleo notified Customer that Tire could not be repaired Customer and G. Caleo had argument about purchase a new tire. Frank could not repair tire Customer was unhappy Frank said the F-word out loud. Eric came over argued with the Customer and he said at the Customer the F-word. The Customer was unhappy and she wanted to talk to management. Andy spoke to the Customer to calm her down she said that Eric had no right to talk to her in a bad way. G. Caleo told Eric to go back to work and that Andy and himself would take care of the Customer.

Andy Aldoher

10-15-03

On Tuesday night Ms. Lacroix came in to Pick up her car. She was mad because the car was not Done. Her son had droped it with me 3 hours earlier. I Explained to her that I called the #'s that were supplied by her son. The number was his Dad's home Phone who was in Florida. I told the woman I was Sorry. She continued to be upset because her tire was not repairable. She said that she was here last week and we told her the same thing and she implied I S that what you people do here (sell people tires they don't need) I responded and told her no we don't do that here. She then started yelling at me about the mechanics swearing. She pointed out Frank and Eric. ~~#~~ Frank offered her his 10% off and Eric got mad that the woman pointed him out as swearing. ~~#~~ Eric Told Frank not to give her 10% off. I do remember Him being very Rude and saying something Profanic. ~~#~~ I ~~was~~ was trying to calm everything down at the time. The woman got very upset and walked away. I told Frank he shouldn't have sworn and told eric he should not have got involved. I then went to ~~get~~ the customer. I ~~ask~~ her what she would like me to do and took care of her the best I could being apolagetic and sincere. ~~#~~ I ~~remember~~ remember her demanding everyone's Name's in the back shop. I think that's why eric spoke up. He did not want to get in trouble for swearing. He then did end up Swearing and I belive he should have been quiet. To many people got involved with this customer including ~~Eric~~ + andy. Diamonds Paul